

ORDINANCE NO. 16-_____

AN ORDINANCE AMENDING MULTIPLE SECTIONS WITHIN CHAPTER 1 (ADMINISTRATION, PERSONNEL, AND FINANCE) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO COLORADO SPRINGS UTILITIES

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 106 (Definitions) of Part 1 (City Code, Title and Organization; Rules of Construction) of Article 1 (Administration) of Chapter 1 (Administration, Personnel, and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

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CHIEF EXECUTIVE OFFICER: The Utilities Director of Colorado Springs Utilities employed by the Utilities Board pursuant to City Charter section 6-10, or the Chief Executive Officer's designee.

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~~EXECUTIVE DIRECTOR: The Executive Director of Colorado Springs Utilities or the Director's designee. The Director shall have the duties and responsibilities of the Chief Executive Officer.~~

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UTILITIES BOARD: The City Council serving as the Board of Directors for Utilities pursuant to City Charter section 6-40.

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Section 2. Section 102 (Regular Council Meetings; Utility Board) and Section 108 (Ordinance Approval and Adoption; Disapproval or Veto) of Part 1 (Elective Officers) of Article 2 (Officers of the City) of Chapter 1 (Administration,

Personnel, and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

1.2.102: REGULAR COUNCIL MEETINGS; ~~UTILITY~~ **UTILITIES** BOARD:

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C. In accord with City Charter subsection 6-40(a), the City Council shall serve as the Board of Directors for Utilities ("Utilities Board"). The ~~President of Council shall chair~~ Utilities Board **shall appoint the Utilities Board Chair and Vice Chair from among its membership. The Utilities Board Chair shall chair** meetings in accord with Utilities Board bylaws.

1.2.108: ORDINANCE APPROVAL AND ADOPTION; DISAPPROVAL OR VETO:

A. Ordinances: In accord with Charter section 3-70, the Council may act at legislative sessions by ordinance, resolution or motion. The Mayor, as the elected executive and administrative head of the government, has the power to veto certain Council ordinances. It is the intent of this chapter to set forth procedures for the exercise of the Mayor's veto power to implement Charter subsection 3-70(e) and ensure the publication of finally passed and adopted ordinances in accord with Charter section 3-80 **with the exception of ordinances pertaining to Utilities.**

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Section 3. Section 201 (Appointees) of Part 2 (Appointive Officers; General Provisions) of Article 2 (Officers of the City) of Chapter 1 (Administration, Personnel, and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

1.2.201: APPOINTEES:

A. As provided by Charter, the following officers shall be appointed by the City Council: a City Auditor, **and** a City Council Administrator, ~~and a Utilities Executive Director².~~ **The Utilities Board shall employ a Utilities Chief Executive Officer.** In addition, City Council shall appoint MHS Enterprise trustees and may appoint advisory and decision making board, commission and committee members.

Section 4. Section 705 (Determine Effectiveness and Efficiency of Programs) of Part 7 (Powers and Duties of the City Auditor) of Article 2 (Officers of the City) of Chapter 1 (Administration, Personnel, and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

1.2.705: DETERMINE EFFECTIVENESS AND EFFICIENCY OF PROGRAMS:

The City Auditor shall determine the extent to which legislative policies are being efficiently and effectively implemented by administrative officials. The City Auditor shall determine whether City programs are achieving desired objectives. The City Auditor shall review the administrative control systems established by the enterprises, department, division, office or agency directors or managers and by the Mayor, Utilities ~~Executive Director~~ **Chief Executive Officer** and MHS Enterprise Chief Executive Officer and determine whether these control systems are adequate and effective in accomplishing their objectives.

Section 5. Part 8 (Powers and Duties of the Utilities Executive Director) of Article 2 (Officers of the City) of Chapter 1 (Administration, Personnel, and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

PART 8 AUTHORITIES, POWERS AND DUTIES OF THE UTILITIES EXECUTIVE DIRECTOR CHIEF EXECUTIVE OFFICER¹

1.2.801: OFFICE OF THE UTILITIES ~~EXECUTIVE DIRECTOR~~ **CHIEF EXECUTIVE OFFICER:**

~~1.2.802: UTILITIES POLICY GOVERNANCE:~~

~~1.2.803: DELEGATION OF AUTHORITY:~~

~~1.2.804: DELEGATION OF AUTHORITY TO EXECUTIVE DIRECTOR AND STAFF:~~

~~1.2.805: POWERS AND DUTIES OF UTILITIES EXECUTIVE DIRECTOR:~~

1.2.806²: UTILITIES ~~EXECUTIVE DIRECTOR~~ **CHIEF EXECUTIVE OFFICER** TO ATTEND COUNCIL MEETINGS:

1.2.801: OFFICE OF THE UTILITIES ~~EXECUTIVE DIRECTOR~~ **CHIEF EXECUTIVE OFFICER:**

In accord with the provisions of chapter 12 of this Code, the Utilities **Chief Executive Officer** ~~Executive Director~~ shall be the executive head of the Utilities, shall be responsible for operations and finances of the Utilities, and shall require the faithful performance of the duties of Utilities employees, and shall receive a salary as set by ~~City Council ordinance~~ **the Utilities Board**. The Utilities **Chief Executive Officer** ~~Director~~ may appoint **Officers**, ~~Deputy Utilities Directors~~, as authorized by the annual Utilities budget, who shall serve at the Utilities **Chief Executive Officer's** ~~Director's~~ pleasure and be terminable at will and may act in the capacity as Utilities **Chief Executive Officer** ~~Director~~ for the administration of duties assigned to them by the Utilities ~~Director~~ **Chief Executive Officer**.

~~1.2.802: UTILITIES POLICY GOVERNANCE:~~

~~The Utilities Board shall govern the management and operation of Utilities by adopting written Utilities Board policies in four (4) categories: Utilities Board ends; Board-CEO linkage; executive limitations and governance process policies. The intent of the policies shall be to reserve to the Utilities Board the functions of establishing overall governance policies, determining organizational ends policies, evaluating Executive Director performance and establishing necessary links to the ownership of CSU. The Utilities Board may adopt and revise the Utilities Board policies as they determine are necessary or prudent to carry out their fiduciary duties and the intent expressed. Further, the Utilities Board may adopt bylaws governing its meeting and agenda procedures and other pertinent matters.~~

~~1.2.803: DELEGATION OF AUTHORITY:~~

~~Except for the matters expressly provided herein, Council hereby delegates all of its authority over the management and operation of the Utilities to the Utilities Board with the intent that the Utilities Board be empowered to exercise authority, judgment and discretion over Utilities to the fullest extent legally possible. This delegation of authority does not include authority to pass ordinances, issue revenue bonds, institute eminent domain proceedings, appropriate funds or adopt annual budgets, approve intergovernmental agreements, adopt or change tariffs for regulated products and services, or to take any action expressly required of the Council in its legislative capacity by the Colorado Constitution, the City Charter, or other controlling law. Without limiting the foregoing general delegation of authority, this delegation specifically includes authority for the Utilities Board to hire, evaluate and terminate services of an Executive Director. Within all areas of this delegated authority, any action, decision or determination of the Utilities Board shall carry the same legal authority, weight and effect as if that action, decision or determination had been made by City Council in its legislative capacity.~~

~~1.2.804: DELEGATION OF AUTHORITY TO EXECUTIVE DIRECTOR AND STAFF:~~

~~To the maximum extent legally possible, the Utilities Board, in its discretion, is empowered to delegate its authority for the management and operation of Utilities as an enterprise to the Executive Director by written Utilities Board policies. In turn, the Executive Director is authorized, in the Executive Director's discretion, to provide for the management and operation of Utilities by creating departments or other operational units and to delegate the Executive Director's authority to staff reporting to the Executive Director by written administrative regulations.~~

~~1.2.805: POWERS AND DUTIES OF UTILITIES EXECUTIVE DIRECTOR:~~

~~In addition to any other powers or duties conferred by the City Charter, this Code, other statutes, Utilities Board policies, ordinances, rules or regulations, the Utilities Executive Director shall have the authority to:~~

~~A. — Execute all business contracts entered into by Utilities and all other contracts and agreements except those which require approval by the Utilities Board under Utilities Board policies or which the City Charter, City Code or other controlling law require to be executed by other officers of the City.~~

~~B. — Delegate signature authority to staff reporting to the Executive Director by administrative regulation, and may provide for further delegation of this signatory authority as appropriate.~~

~~C. — Adopt and promulgate administrative regulations and service standards and specifications consistent with the provisions of the Charter or this Code concerning matters that are applicable to all operations and finances of the Utilities including departments, divisions, offices and agencies.~~

~~D. — Delegate authority to staff reporting to the Executive Director by administrative regulation, to adopt service standards and specifications for each respective department.~~

~~E. — Make and enforce rules and regulations as may be necessary for the regulation, collection, rebating and refunding of user charges for utility services.~~

~~F. — Identify and certify an imminent hazard condition exists and abate the hazard in accord with the provisions of chapter 12 of this Code.~~

~~G. — Interrupt or curtail utility services or to provide for the interruption or curtailment of utility services whenever emergency circumstances, including, without limitation, supply limitations or restrictions, treatment restrictions or limitations, transmission or distribution system restrictions or failures, or operational problems, require immediate interruption or curtailment of utility services for~~

~~operational or safety reasons. The Executive Director's authority under this section may be delegated by administrative regulation.~~

~~H. Issue revocable permits for the use of public property primarily used by Utilities, including watershed areas, for any purpose not inconsistent with chapter 12 of this Code, other provisions of this Code, regulations established by the Utilities Executive Director, or other laws and ordinances regulating the use and occupancy of public property.~~

~~I. Establish regulations governing the issuance or denial of a revocable permit and setting insurance requirements, fees and permit terms and conditions necessary to protect the public health, safety and welfare and the safety and welfare of Utilities operations, equipment and facilities.~~

~~1.2.8062: UTILITIES EXECUTIVE DIRECTOR~~ **CHIEF EXECUTIVE OFFICER** TO ATTEND COUNCIL MEETINGS:

The Utilities ~~Executive Director~~ **Chief Executive officer or a designee of the Chief Executive Officer** shall attend all meetings of the Council when requested.

Section 6. Section 102 (Personnel Policies and Procedures) of Part 1 (Employee Rules and Regulations) of Article 4 (City Employees) of Chapter 1 (Administration, Personnel, and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

1.4.102: PERSONNEL POLICIES AND PROCEDURES:

A. In accord with Charter subsection 3-10(f), the City Council shall review and approve by ordinance personnel policies and procedures for all City employees, including civil service employees, but specifically excluding employees of the Utilities and MHS Enterprise. The ~~Executive Director~~ **Chief Executive Officer** of Utilities and the MHS Enterprise Board of Trustees shall promulgate personnel policies and procedures and make any changes as deemed necessary for employees of those enterprises. Unless otherwise provided, these policies and procedures shall apply to employees as designated by their respective organization. The policies and procedures are not intended to be an express or implied contract. It shall be the responsibility of each employee to be familiar with these policies and procedures.

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Section 7. Section 301 (Criminal Actions) and Section 302 (Civil Actions) of Part 3 (Defense of Employees) of Article 4 (City Employees) of Chapter 1 (Administration, Personnel, and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

1.4.301: CRIMINAL ACTIONS:

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B. Committee Investigation: To assist the City Council in making this finding and determination, a committee consisting of the City Attorney, the Risk Manager and the head of the employee's department, division, office, enterprise or agency (or the Mayor or the ~~Executive Director~~ **Chief Executive Officer** of Utilities, as appropriate if the employee charged is a department, division, office, enterprise or agency director or manager) shall investigate the criminal charge and shall make a recommendation to the City Council whether the above criteria for paying the costs of defending the employee are met.

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1.4.302: CIVIL ACTIONS:

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C. Civil Action Investigation Committee: To assist the City Council in making such findings and determinations, a committee consisting of the City Attorney, the Risk Manager, and the head of the affected employee's department, division, office, enterprise or agency for the City (or the Mayor, Utilities ~~Executive Director~~ **Chief Executive Officer** or MHS Enterprise Chief Executive Officer if the employee charged is a department, division, office or agency director or manager) shall cause an investigation to be made of any civil action, and make a recommendation to the City Council whether the above criteria for paying the costs of defending the employee or the cost of payment of any judgment or settlement are required pursuant to the requirements of this section. In the interest of clarity, "MHS Enterprise" does not refer to any current or future operator of leased facilities under the Memorial Health System Affiliation or encompass such operator's employees.

Section 8. Section 504 (Claims Review Board) and 506 (Litigation) of Part 5 (Claims Management) of Article 5 (Finance Management Procedures) of

Chapter 1 (Administration, Personnel, and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

1.5.504: CLAIMS REVIEW BOARD:

A. There is hereby created a Claims Review Board which shall consist of the Mayor, for claims against the City, or the Utilities ~~Executive Director~~ **Chief Executive Officer**, for claims against the Utilities, the City Attorney, the **City's or Utility's** Chief Financial Officer, and the affected department, division, office or agency director or manager. The Claims Review Board shall meet only when required to determine whether or not to compromise or settle a claim within the authorities provided in this chapter. Three (3) members present shall constitute a quorum of the Board.

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1.5.506: LITIGATION:

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E. In addition to the monthly litigation report, the City Attorney shall be responsible for providing a litigation settlement report to the City Council, Mayor, ~~and Risk Manager,~~ **and Utilities Chief Executive Officer** for all cases which have been settled without the prior knowledge of City Council pursuant to the requirements of this chapter.

Section 9. Section 702 (Definitions) of Part 7 (Unclaimed Property) of Article 5 (Finance Management Procedures) of Chapter 1 (Administration, Personnel, and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows

1.5.702: DEFINITIONS:

DIRECTOR: For all unclaimed property that is held by or under the control of the City but is not held by or under the control of Utilities or MHS Enterprise, Director shall mean the Mayor, or the Mayor's designee. For unclaimed property held by or under the control of Utilities, Director shall mean the ~~Executive Director~~ **Chief Executive Officer** of Utilities. For property held by or under the control of MHS Enterprise, Director shall be the Chief Executive Officer of MHS Enterprise.

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Section 10. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 11. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2016.

Finally passed: _____

Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson, City Clerk